2: Hockings E-4,5 (1962-1977) 1980
AW50 Badaga AW50

French-supported film factory and a protein products factory, supposedly to improve farm productivity and employ the pool of Badaga graduates.

MODERN LAWS

Certain pieces of legislation often regarded as milestones in the modernization of Indian society have affected the Badagas very little, and these we need review only briefly.

The Hindu Widows' Remarriage Act, 1856, had no particular effect on Badagas since there was never any interdict against remarriage of their widows. The Hindu Women's Right to Property Act, 1937, has always been ignored by Badagas, and the women have never challenged their traditional treatment: the property is only inherited by males. Nor does the Hindu Marriage Act, 1955, receive due recognition from Badagas: marriages are still not always monogamous and are sometimes contracted with grooms below eighteen or brides below fifteen. Kotas and lowland Harijans, although supposedly protected by the Untouchability (Offences) Act, 1955, are never allowed into Badaga temples and are normally served with separate 'untouchable' glasses when they drink at a village teashop. People in Nilgiri villages may not be ignorant of such legislation, but there certainly remains some resistance to the idea of integrating the official system of law and administration into Badaga culture. Even more resistance can be found among the Todas, Kotas and Kurumbas.

NOTES

1. Meaning, respectively, Toda division, Western division, Europeans' division (from *ferangi*, 'Franks') and peak division (from Tamil *kuṉṟu*, 'mount'). Why one division should have been named after Europeans is not clear, unless it be a reference to seventeenth-century Jesuits who may have entered this area from Sattiyamaṅgaḷa and Me:ṯṯupa:ḷaya, where they were then active; Société des Missions-étrangères, 1933, vol. xii, 234–235. The name is certainly ancient. Grigg, 1880, 13, n. 1, and Macleane, 1893, 678, derive this name however from Tamil *periya Raṅga*, 'great god Raṅga,' who is worshipped in this area; see above, p. 127. Throughout the nineteenth century these territorial divisions were adopted by British administrators, but in 1882 they were superceded by the three *taluks* (Gudalur, Ootacamund, Coonoor) that are still recognized today.

632 In the earliest days of the British régime it was enough for the manegar to be a man of the gentry respected by the Badagas (Grigg 1880: 336). In addition to him, (177) the British appointed a Badaga as accountant or karnam to keep records. Both of these roles -- held by Badagas appointed by and responsible to an outside authority -- were new to Nilgiri society. So was the idea of electing a council; but a supposedly elected panchayat (the India-wide term for a village council) became the official instrument of local government shortly after the First World War. Its functions today are to provide various facilities, notably the up-keep of roads and paths, water supply, community radio, the maintenance of land records and birth and death registers, and the supplying of information about various aspects of government activity.

The roles of the two key positions in a government panchayat are officially stated to entail the following:

> The head of the village [i.e. manegar] is the representative of Government in the village. He is the village magistrate and head of the village police. He is the collector of the revenue of the village over which he presides, and has also to perform [miscellaneous small] duties...
> The karnam, who is entrusted with the keeping of village accounts, is subordinate to the head of the village. He should help and advise the head of the village in every way. He is the clerk of the head of the village in his capacity of village munsif [i.e. manegar] and Magistrate. He has to prepare reports, accounts, statements, etc., which it is necessary to put in writing... (Madras 1958: 1)

632 692 625 Despite the setting-up of village panchayats and the appearance of a state police force in some Nilgiri villages, the organization of celebrations and the settlement of disputes have remained very much in the hands of the traditional headman, his festival committee, and his council. Criminal cases must be reported to the police and are usually handled in a court of law, but civil and petty criminal cases can either be settled by the Badaga council or can go before • 671 an official panchayat court. (The distinction between civil and criminal cases is

671 made explicit in the Indian Penal Code, which in this matter closely follows English common law.)

692 This confusing situation in effect exposes the Badagas to three different legal systems: their own indigenous one, still remembered and influential in establishing precedents; the present-day Badaga village council, which settles disputes according to a majority opinion (although the headman's own decision is really the final one), an opinion modified by the knowledge that the case might then be taken, together with the decision, before a court of law; and finally there is the hierarchy of government lawcourts.

692 671 632 At the lowest level in this hierarchy of lawcourts is the government-sponsored panchayat court. Its powers are outlined in the following quotations from official regulations (which are still in force):

(681) Section 10 of Regulation XI of 1816.

First.--In cases of a trivial nature, such as abusive language and inconsiderable assaults or affrays, heads of villages shall have authority, on a verbal examination, either to dismiss the parties, or, if the offence charged shall be proved to have been committed by the persons accused of it and shall appear deserving of punishment, to confine the offending parties in the village choultry [i.e. shelter] for a time not exceeding 12 hours...

Section 6 of Regulation IV of 1821.

First.--The powers granted to heads of villages.... to punish trivial offences, have been extended... to the punishment of petty thefts not attended with aggravating circumstances nor committed by persons of notoriously bad character, and where the value of the property stolen does not exceed one rupee... (Madras 1958: 46)

692 671 Panchayat courts may, in addition to the powers to try petty civil suits of specified nature, be invested by the State Government with the power to take cognizance of and try specified offences of a trivial nature and abetment of such offences committed within the local limits of their respective jurisdiction. Such offences are affray (section 160, Indian Penal Code), voluntarily causing hurt (sections 323 and 334, Indian Penal Code), assault or using criminal force (sections 352 and 358, Indian Penal Code), theft (section 379, Indian Penal Code) and mischief (section 426, Indian Penal Code), when the value of [the] property stolen or damaged does not exceed Rs. 10 or if the Government so direct Rs. 20, insult (section 504, Indian Penal Code), some

692 nuisances under the Indian Penal Code (sections 277, 283, 290 and 510) and the Madras Towns Nuisances Act, and generally any other offence under the
•671 Indian Penal Code or any special or local law which is punishable with fine only or with imprisonment for a term not exceeding six months or with both.

The sentence which a panchayat court may pass is [a] fine not exceeding
(681) Rs. 15, except in cases of theft or mischief where the fine may extend to
(685) twice the value of the property stolen or the amount of damage caused. (Madras 1958: 50)

121 Since such a multiplicity of courts, officials, regulations and legal systems now faces a Badaga, how does he select where to go with a legal complaint? There are a number of factors that guide his handling of the problem.

692 The prime consideration is apparently not the seriousness of the complaint but the good repute of a man's own village. I know of several cases of murder and suicide which were handled entirely by the traditional Badaga council in the village where the acts were committed. This procedure contravenes Indian law, since any such criminal offences should automatically be reported to the police and if necessary be examined in a magistrate's court. (It is supposedly the
(632) headman's duty to decide whether a case should be placed before a magistrate.)

692 Badagas, on the other hand, whether siding with the victim, the malefactor, or
829 neither, prefer that all such matters be cleared up by the headman and his council without the village name being marred through a police investigation and loose gossip. For the same reason they also try to stop the case going on to the next higher level of council in their own traditional system.

691 Despite this state of affairs, it is very common for a case which has al-
692 ready been judged by the village council to be taken to a court of law by whichever side has lost; hence we characterize the present procedure as "ambi-legal". The practice has arisen because it is widely known that the decisions of a traditional village council are not legally binding and are often not very impartial either. On

159 is now up to Ranga to solve the problem."
695

The solution which Ranga chooses must be couched in the current ambi-
159 legal idiom. If he attempts a solution purely in the traditional idiom or purely in
692 the lawcourt idiom, without taking the alternate system and Jogi's possible manipulation of it into account, then Ranga's chances of ultimate success are slim.

177 The point which the case of Jogi and Ranga underlines is that the intro-
671 duction of British procedural law in the 19th Century did not simply offer the Bada-
692 gas an alternative approach for solving conflicts in their community. To any
829 Badaga the procedure in the lawcourt must have seemed capricious: it operated on the assumption that all individuals were equal before the law, and that the proceedings must work directly towards a just decision; whether a man was a Toreya or a member of the gentry was irrelevant to how he would be treated; his past history and his family's reputation were similarly not taken into consideration when
578 the specific case came before the court. To Jogi and Ranga, therefore, as to many
691 of their Badaga contemporaries, the lawcourt is less of a mechanism for dispen-
692 sing justice than a possible means of revenge and a process for overcoming one's opponent (regardless of who is actually in the right). The use of a lawcourt can involve an opponent in crippling legal costs, or the threat of these costs may frighten him into compliance with what is required of him. The threat of going to a lawcourt after one's case has received unfavorable treatment at the hands of the village council can also be used to undermine the authority of the elders on
578 that council and cast aspersions upon the honor of the village. For over a cen-
691 tury the Badagas have had a saying that runs: "If you take a complaint to a Magistrate, it is as if you had put poison into your adversary's food" (Grigg 1880: 224). The belief is still voiced today; but in the interim Badagas have learned how to